

CHARLES ANTHONY BROOKS,
Petitioner,
v.
RONALD DAVIS,
Respondent.

Case No. 15-cv-04877-RS (PR)

ORDER TO SHOW CAUSE

INTRODUCTION

Petitioner seeks federal habeas relief under 28 U.S.C. § 2254 from his state conviction. The petition for such relief is now before the Court for review pursuant to 28 U.S.C. § 2243 and Rule 4 of the Rules Governing Section 2254 Cases. Respondent shall file a response to the petition on or before **August 14, 2017**, unless an extension is granted.

BACKGROUND

The following background is based on the many filings petitioner has made in the many cases he has filed in this district and others. In 2015, in the San Mateo County Superior Court, petitioner pleaded nolo contendere to a charge of vandalism and was sentenced to 32 months in state prison.

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DISCUSSION

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This Court may entertain a petition for writ of habeas corpus “in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). A district court considering an application for a writ of habeas corpus shall “award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243. Summary dismissal is appropriate only where the allegations in the petition are vague or conclusory, palpably incredible, or patently frivolous or false. *See Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990).

As grounds for federal habeas relief, petitioner alleges that he should be paroled because he is owed more time credits. When liberally construed, this claim is cognizable on federal habeas review.

CONCLUSION

1. The Clerk shall serve a copy of this order, the operative petition (Dkt. No. 22) and all attachments thereto, on respondent and respondent’s counsel, the Attorney General for the State of California. The Clerk shall also serve a copy of this order on petitioner.

2. On or before **August 14, 2017**, respondent shall file with the Court and serve on petitioner an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be granted based on petitioner’s cognizable claims. Respondent shall file with the answer and serve on petitioner a copy of all portions of the state trial record that previously have been transcribed and that are relevant to a determination of the issues presented by the petition.

3. If petitioner wishes to respond to the answer, he shall do so by filing a traverse with the Court and serving it on respondent’s counsel within thirty (30) days of the date the answer is filed.

1 4. In lieu of an answer, respondent may file, within ninety (90) days of the date this
2 order is filed, a motion to dismiss on procedural grounds, as set forth in the Advisory
3 Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases. If respondent
4 files such a motion, petitioner shall file with the Court and serve on respondent an
5 opposition or statement of non-opposition within thirty (30) days of the date the motion is
6 filed, and respondent shall file with the Court and serve on petitioner a reply within fifteen
7 (15) days of the date any opposition is filed.

8 5. Petitioner is reminded that all communications with the Court must be served on
9 respondent by mailing a true copy of the document to respondent's counsel.

10 6. It is petitioner's responsibility to prosecute this case. Petitioner must keep the
11 Court and respondent informed of any change of address and must comply with the
12 Court's orders in a timely fashion. Failure to do so may result in the dismissal of this
13 action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

14 7. Upon a showing of good cause, requests for a reasonable extension of time will
15 be granted provided they are filed on or before the deadline they seek to extend.

16 **IT IS SO ORDERED.**

17 **Dated:** June 9, 2017



RICHARD SEEBORG
United States District Judge

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